FINANCING MENTAL HEALTH SERVICES FOR JUVENILE OFFENDERS WITH MENTAL ILLNESS

as required by
Article 1, Texas Department of Mental Health and Mental Retardation, Rider 63

December 1, 2002

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Article 1, Texas Department of Mental Health and Mental Retardation, Rider 63, requires the Texas Department of Mental Health and Mental Retardation (TDMHMR) to work with the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC) to study current mechanisms of financing mental health services for youth in the juvenile justice system, including the use of Medicaid, CHIP and General Revenue. The department is required to submit a report to the Legislative Budget Board and the Governor by December 1, 2002, specifying strategies to maximize the availability of public funds to improve mental health services for youth in the juvenile justice system. This paper serves as the required report. The department solicited information from TJPC, TYC and the Texas Council on Offenders with Mental Impairments (TCOMI) in its development.

Background

In Texas, as is true nationally, there is an increasing awareness that a significant percentage of youth in the juvenile justice system have mental health needs. They range from those whose criminal activity is a by-product of underlying emotional, behavioral or mental disorders to those with extensive criminal behavior who also have mental health disorders. Their diagnoses vary in intensity from single, common problems such as conduct and attention-deficit disorders to very disabling disorders such as schizophrenia, bipolar depression and major depression. It is not uncommon for such youth to have multiple diagnoses, often including substance abuse.

Clearly, most youth with emotional or mental disorders are not in the juvenile justice system, and not all youth in the juvenile justice system have mental health disorders. However, there is significant overlap. National studies have indicated that up to 60% of juveniles have a diagnosable mental health disorder while at least 20% have serious mental health disorders (Joseph J. Cocozza and Kathleen Skowyra, "Youth with Mental Health Disorders: Issues and Emerging Responses, Juvenile Justice: The Journal of the Office of Juvenile Justice and Delinquency Prevention," Vol.VII, No. 1, April 2000). Studies from other states suggest that at least 20% of youth receiving public mental health services have been arrested. At any given time, approximately 20% of youth receiving services from TDMHMR are involved in the juvenile justice system.

Parents of adolescents with serious emotional, behavioral or mental health problems are at times advised to have their children charged with criminal offenses in order to access court-ordered care and to enlist the power of the court to enforce treatment. A 1999 report commissioned by the National Alliance for the Mentally Ill, "Families on the Brink: The Impact of Ignoring Children with Serious Emotional Disturbance," disclosed that 36% of parents surveyed, said that their children were in the juvenile justice system because mental health services were unavailable.

Traditional mental health treatments such as office-based counseling or residential treatment are often ineffective in treating the interaction of mental health problems and criminal behavior. In recent years, newer intensive community-based models, such as Multi-Systemic Therapy,

Functional Family Therapy, and systems of care approaches, have been developed that demonstrate better outcomes in terms of child and family functioning and recidivism in the juvenile system. However, these interventions are not commonly available in Texas.

The lack of availability of intensive, community-based treatment and concerns for public safety often cause probation departments and juvenile courts to place youth in out-of-home settings such as boot camps, intermediate sanction facilities and residential treatment facilities. These placements are expensive and there is little evidence of long-term positive outcomes for youth following their return home and to the community. Probation departments and juvenile courts also commit youth with mental health disorders to the Texas Youth Commission.

At the state level, the juvenile justice system does not capture family income or insurance status on its youth, but it is widely believed that the family income of most youth in the system is fairly low. Given that, many would be eligible for Medicaid or the Children's Health Insurance Program (CHIP). However, federal rules limit access to Medicaid or CHIP for "inmates of a public institution." Youth cannot be made eligible for these public insurance programs after entering detention or TYC facilities. If they are already on Medicaid or CHIP when they enter detention, they are considered "temporarily residing in the institution pending other arrangements appropriate to needs." If the child is to be returned home within 30 days, Medicaid or CHIP can be used to pay for mental health care during the detention stay. When the child returns home on probation or deferred adjudication, Medicaid and CHIP can be used to pay for either voluntary or court-ordered treatment.

In recognition of these many concerns, the 74th Texas Legislature appropriated funding to TDMHMR targeted for juveniles with mental health needs and those at risk of involvement in the juvenile system. Prior to the 77th legislative session, the Mental Health Association in Texas, TDMHMR, TJPC and TYC co-hosted a legislative summit to draw attention to the needs of juvenile offenders with mental disorders. Due to this and other efforts including studies by the Criminal Justice Policy Council, the 77th Texas Legislature appropriated funding to TCOMI and TJPC for this population. In addition, HB 1901 mandated the development of a comprehensive long-range plan to meet the needs of juvenile offenders with mental health and substance abuse needs. The plan is due to the legislature on December 1, 2002.

State Agency Resources for Juvenile Offender Mental Health Treatment

Texas Department of Mental Health and Mental Retardation

As previously noted, since FY 96 TDMHMR has received General Revenue funding specifically targeted at juvenile offenders. Originally appropriated at $7 million per year, the funding level is currently $6.2 million per year due to budget reductions. In FY 02, approximately 20% of the children served by the agency had current involvement with law enforcement, ranging from Conduct Indicating a Need for Supervision (CINS) to deferred adjudication to felony convictions. These funds are available through every community mental health center and NorthSTAR, the department's managed care initiative in the Dallas area.

All services offered by the department are available to juvenile offenders. These may include assessment, crisis services, medication management, counseling, skills training, flexible supports such as respite, day treatment, intensive in-home treatment, therapeutic foster care, and inpatient

hospitalization, as resources permit. Only children with Medicaid are entitled to services. In FY 02, TDMHMR served approximately 25% of the number of children projected to be in its priority population.

In addition, the department operates child and adolescent inpatient beds in several state hospitals across the state, including a specialized Adolescent Forensic Unit at Vernon State Hospital. The Vernon unit serves youth ages 13-17 who have both mental illness and substance abuse disorders. It has a 78-bed treatment capacity. The department's residential treatment facility, the Waco Center for Youth, does not accept youth who have been adjudicated. If youth are court-ordered into inpatient care, they are deemed eligible for Medicaid coverage regardless of family income as an "independent child." State hospitals maximize Medicaid billing under these circumstances.

Forty-eight percent of children served by TDMHMR are enrolled in Medicaid and another 15% are enrolled in CHIP. General revenue serves as a match for Medicaid. The department strives to maximize resources by requiring Medicaid or CHIP enrollment as a condition of being served, with clinical override permitted under certain circumstances.

Texas Juvenile Probation Commission

According to "An Overview of the Enhanced Mental Health Services Initiative" (Criminal Justice Policy Council, May 2002), 22% of the youth under probation supervision are estimated to have a mental illness. In FY 01, 36% of those youth were served by TDMHMR. The estimate does not include those who received private mental health services, who had never been diagnosed or received mental health services, or whose history of treatment pre-dated TDMHMR automated records.

TJPC does not have a mandate to provide mental health services to juveniles. There are three sources of funding for juvenile mental health services through the probation system: general revenue; local funds through county commissioner courts; and federal title IV-E funds.

1) General Revenue

- Challenge Grants: $1.3 million in General Revenue is available to be matched at the local level by community mental health centers and local offices of the Texas Department of Protective and Regulatory Services to purchase outpatient and residential services for children with serious emotional disturbances mutually served by the three agencies. These funds are not directly targeted to juvenile offenders.
- Enhanced Mental Health Services Initiative: The 77th Texas Legislature appropriated $2 million per year to TJPC, in a collaborative project with TCOMI and TYC, to fund specialized mental health caseloads for probation officers. The funds were specified for youth who:
  - ✓ Have received a disposition of deferred prosecution or probation and are being supervised in the community; and
  - ✓ Have a mental health diagnosis other than, or in addition to, substance abuse, mental retardation, autism, or pervasive developmental disorder; and/or

- ✓ Have a significant functional impairment, are at risk of out-of-home placement due to psychiatric symptoms or are in a school system's special education program due to emotional disturbance; and/or
- ✓ Have at least one family member willing to actively participate in the program.

Specialized caseload probation officers function as team members with mental health professionals, paid through the TCOMI funding. The teams serve between 12-15 juvenile offenders and their families for 4-6 months in an intensive in-home and family-focused treatment model. The Criminal Justice Policy Council is evaluating this initiative.

- Intermediate sanctions facilities: Probation departments can apply to TJPC to access funds for residential placement for youth who are at level 5 (defined as a 1st degree felony, excluding the use of a deadly weapon or causing serious bodily harm).

2) Local funds

In large part, county funds pay for mental health care for juveniles. In urban counties, this local investment can be significant. Many smaller or more rural counties allocate few, if any, local funds to purchase mental health care for juveniles. Thus, if county probation departments cannot access services from the local community mental health center, they have few other options. When probation departments purchase mental health services with local funds, they often buy from private providers. Some probation departments have developed their own in-house mental health units.

3) Federal Title IV-E Funds

Through an agreement with the Texas Department of Protective and Regulatory Services, TJPC can certify local funds to draw down federal Title IV-E dollars to pay for approximately half of the cost of residential treatment placement. Federal rules require that courts order the residential placement. In FY 01, $156 million in local and federal funds were spent on residential treatment.

Texas Youth Commission

TYC spends more than $28 million in General Revenue annually to provide mental health services for youth under its jurisdiction. The percentage of youth assessed as having mental health disorders in its facilities has risen from 27% in FY 95 to 49% in FY 02. All institutions have on-site psychological services and contracted psychiatric services. In January 02, TYC reported that 21% of its institutional population was on psychotropic medication. TYC has two specialty treatment facilities, the Corsicana Residential Treatment Center and the Crockett State School, that provide mental health services to youth to stabilize their conditions so they can participate in the Resocialization Program. The Corsicana facility has an average daily population of 298 youth and is reserved for the most seriously ill juveniles. Medicaid and CHIP coverage is not permitted in institutional settings. TYC also contracts with private providers who operate specialized treatment programs for TYC youth with emotional disturbances or with mental retardation.

TYC provides aftercare for youth discharged from its specialized treatment programs for youth with emotional or mental disorders. In some areas of the state, the parole program has officers

with specialized caseloads of emotionally disturbed or mentally ill youth. The agency is statutorily required to discharge youth who have completed their required length of stay but who are unable to progress in their rehabilitative programs due to mental illness. These youth are generally discharged directly to state psychiatric hospitals.

Prior to discharge, TYC assists youth who are Medicaid or CHIP eligible to enroll in the insurance programs so that they can access health and mental health care benefits upon discharge. Parolees are also eligible for case management services through the CJPC Enhanced Mental Health Services Initiative described below.

Texas Council on Offenders with Mental Impairments

The January 2001 Criminal Justice Policy Council (CJPC) Biennial Report to the 77th Texas Legislature identified the emotionally disturbed juvenile justice population as a critical issue. CJPC later developed the Enhanced Mental Health Services Initiative which lead to a $5 million/year appropriation to TCOMI and $2 million/year to TJPC to promote better access to mental health services to juveniles. The TJPC specialized probation caseload component of the initiative has been previously described. The TCOMI funds are used to purchase intensive community-based treatment and case management services for juveniles. Services are purchased through TDMHMR community mental health centers in order to maximize Medicaid and CHIP reimbursement. This new initiative started in the fall of FY 02. The CJPC will report on its implementation to the 78th Legislature.

Opportunities to Maximize Public Funds Currently Available for Mental Health Treatment of Juvenile Offenders

1) *Maximize Medicaid and CHIP reimbursement.*

- Juvenile courts should require, to the extent possible, Medicaid and CHIP enrollment for youth in court proceedings.
- Local probation departments should consider requiring private providers to enroll as Medicaid or CHIP providers as a contract condition in order to enjoy county business.
- Probation departments should consider contracting with the local mental health authority for services so that county funds can be certified for match for Medicaid enrollees.

2) *Redirect local resources spent on residential treatment to community-based, "wraparound" interventions*.

Communities across the country have found that very disturbed children can be successfully served in the community through a comprehensive community-based approach that includes the availability of intensive treatment options such as in-home services, day treatment, therapeutic foster and group care and flexible family supports such as respite and mentors. For example, Wraparound Milwaukee, which serves only adjudicated delinquent youth, pools funds with partner agencies and takes an integrated, multiservice approach to serving youth and their families. The major components of a wraparound approach are: an emphasis on using a strengths-based and family-focused approach; individualized treatment plans that are tailored to meet the needs of each unique child and family; and a focus on outcomes defined by the family in conjunction with professionals. Wraparound Milwaukee has had very positive outcomes. The use of residential treatment has dropped by 60%; youth functional impairment has improved; and

there is a statistically significant reduction in reoffenses. Texas has piloted this systems of care approach through the Texas Integrated Funding Initiative for several years. As a result of a recommendation from the interim Senate Health and Human Services study, legislation has been introduced for the upcoming legislative session to expand the approach statewide (SB 60 by Zaffirini).

The availability of structured living arrangements is key to successfully maintaining very troubled youth in community settings. Such youth are often difficult to manage. If they cannot function in their family home, juvenile departments often find that structured, 24-hour facilities such as residential treatment centers are their only recourse. If more capacity of therapeutic foster and small group care was available with associated intensive treatment and supports, it is likely that many of these youth could be maintained in the community. Local probation/parole departments and community mental health centers should investigate opportunities to redirect institutional care funds to alternative structured community living arrangements that will maintain youth and community safety in a more cost-effective manner.

Research clearly indicates that the provision of effective mental health treatment for juvenile offenders can reduce recidivism. Given the significant unmet need, it is important to maximize available resources at both the state and local levels.